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90-1 95

Supreme Court, U.S.

FILED

JUN 25 1990

JOSEPH F. SPANIOLO
CLERK

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1990

LUIS A. SORO A/K/A PETITIONERS

CITICORP MORTGAGE COMPANY INC.

vs.

Citicorp ET. AL., RESPONDENT

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

LUIS A. SORO A/K/A

CITICORP MORTGAGE CO. INC.
1439 A- Alton Road
MIAMI BEACH, FLA. 33139
(305) 674-1425



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LUIS A. SORO A/K/A PETITIONERS
CITICORP MORTGAGE COMPANY INC.

vs.

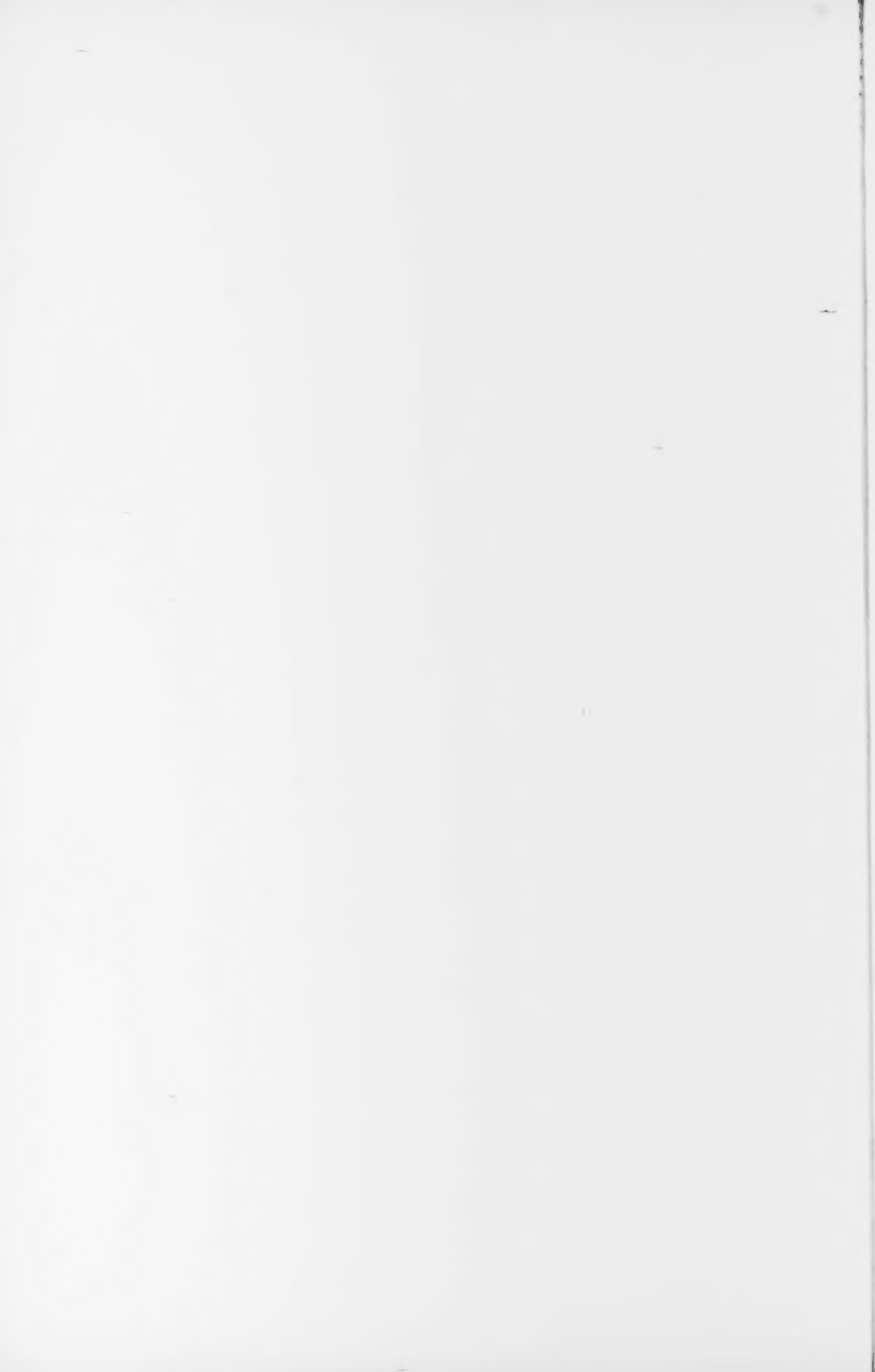
Citicorp MT. AL., RESPONDENT

PETITION FOR WRIT OF HABEAS CORPUS
TO THE UNITED STATES COURT OF APPEALS
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PETITION FOR WRIT OF HABEAS CORPUS

LUIS A. SORO A/K/A

CITICORP MORTGAGE CO. INC.
1439 A- Alton Road
MIAMI BEACH, FLA. 33139
(305) 674-1125



QUESTIONS PRESENTED

1. Whether the Honorable Court of Appeals for the 11 Circuit erred in affirming the opinion of the Honorable District Court in not holding the term "citicorp" GENERIC, INVALID, FRAUDULENTLY OBTAINED, UNENFORCABLE, FATALLY WEAK and EXTENSEVELY USED BY THOUSANDS OF FLORIDA CORPORATIONS and failed to Cancel the registration # (982,066) as provided by 15 U.S.C. § 1119 McCarthy supra, 12:18 at 441-42 and failed to observe that confusion between service marks and similarty of appearance is determined on the basis of the total effect of the designation rather than on a comparision of individual features.

2. Whether the Honorable Court of Appeals for the 11 Circuit error in affirming the opinion of the Honorable District Court when it abused its discretion in the order signed which states that the counter claims filed by Soro are dismissed as untimely and for lack of standing and failed to realize that this was the first and only time I was offered to file them and request a jury trial to prevent a massive debacle in Florida.

3. Whether the Honorable Court of Appeals for the 11 Circuit abused its discretion in granting Respondent's summary judgment filed out of time.

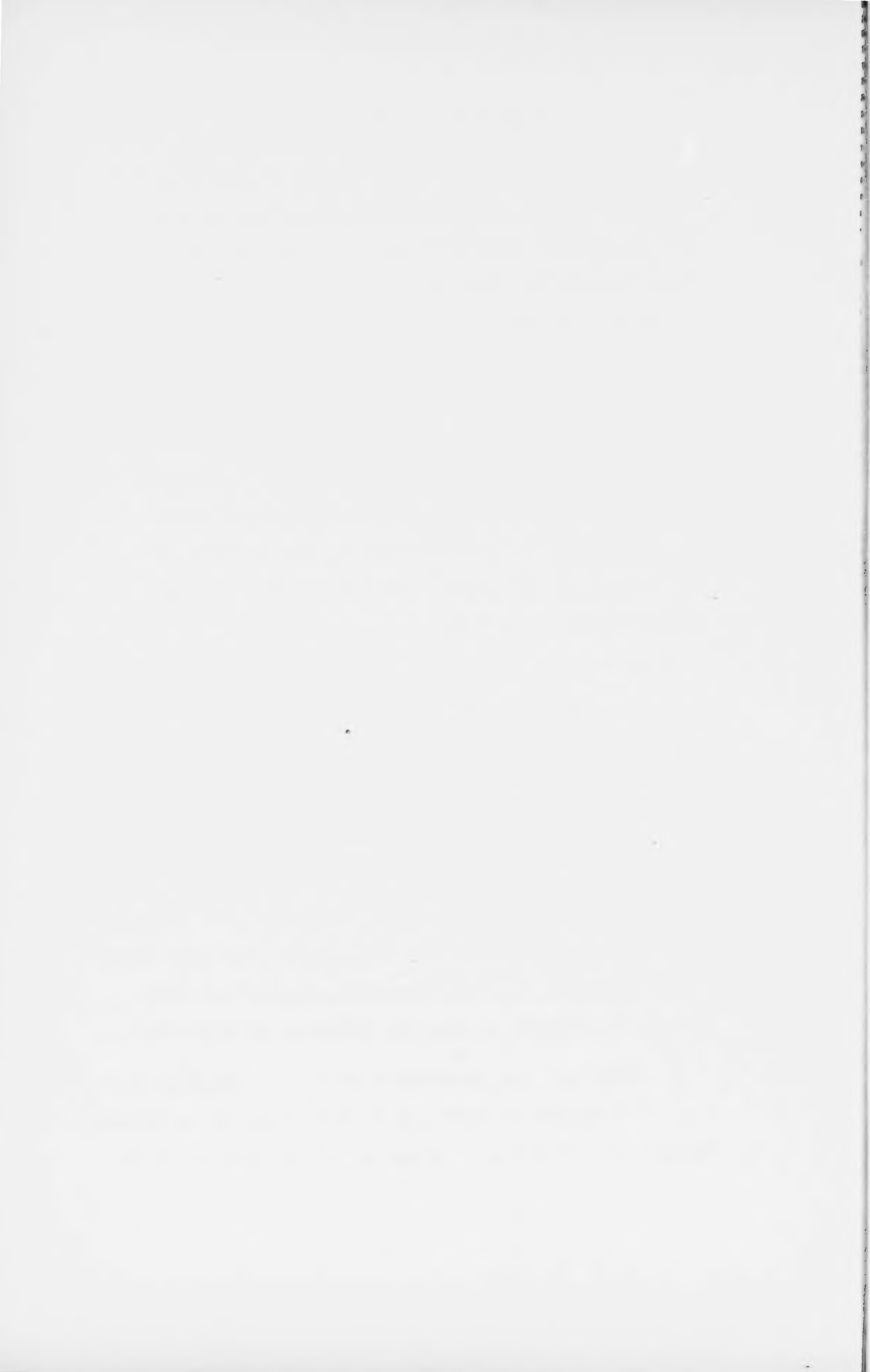


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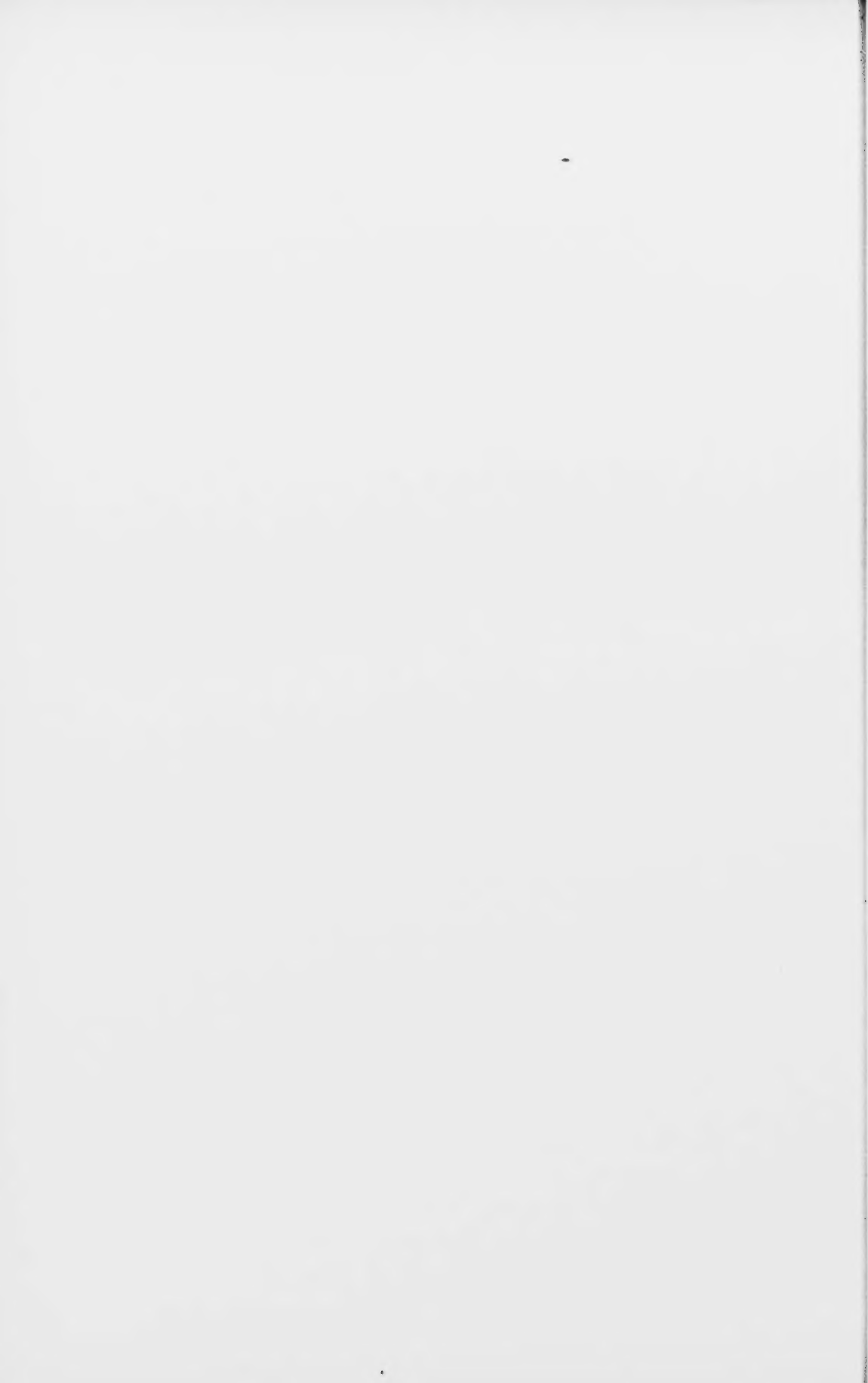
NO

IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

LUIS A. SORO A/K/A
CITICORP MORTGAGE CO. INC. PETITIONERS
versus
Citicorp ET. AL., RESPONDENT

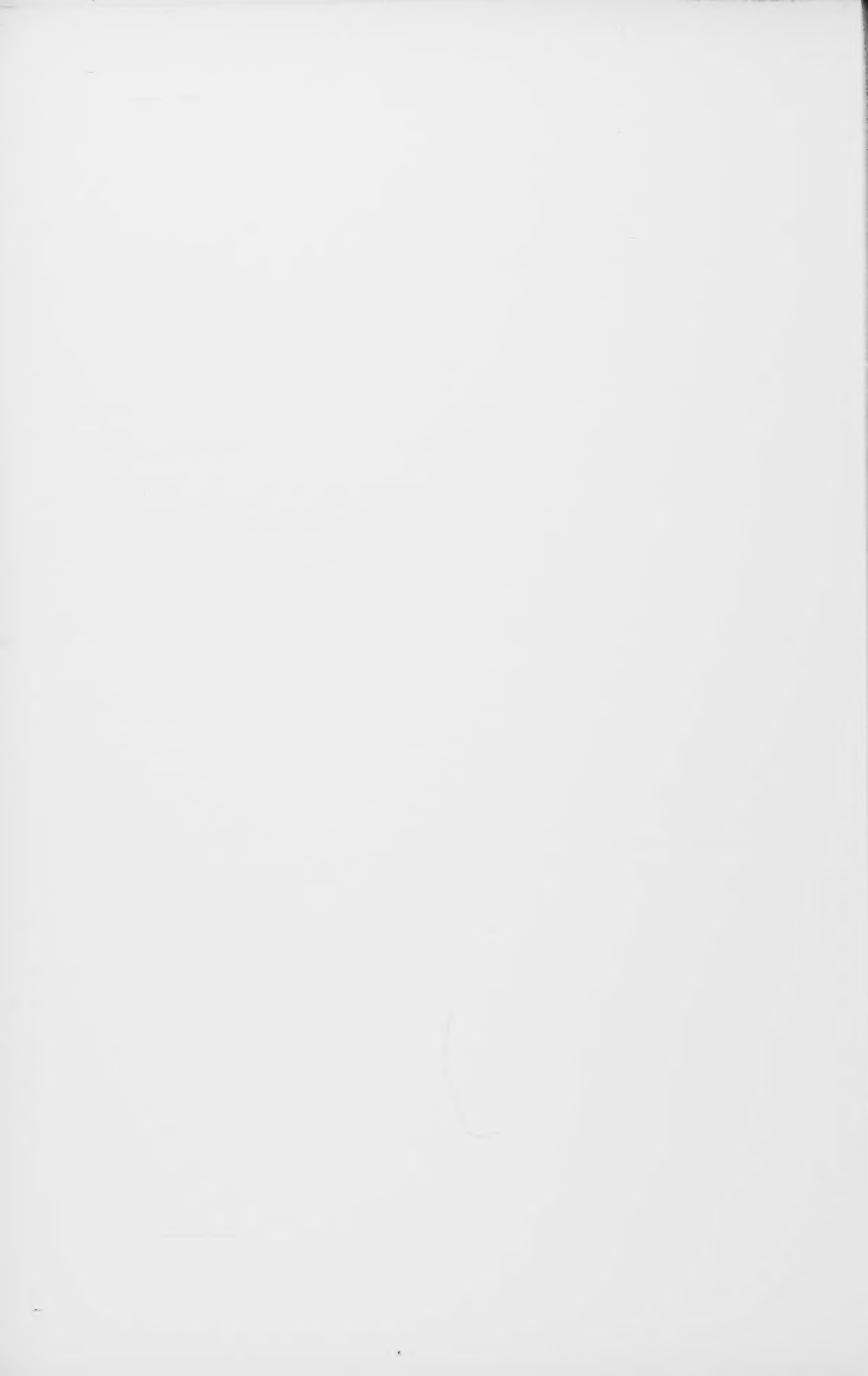
PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITIONER, Luis A. Soro A/K/A CITICORP
MORTGAGE COMPANY INC. Respectfully prays that
a writ of certiorari issue to review the
judgment and opinion of the Honorable United
States Court of Appeals for the Eleventh
Circuit affirming the Lower Court's opinion.



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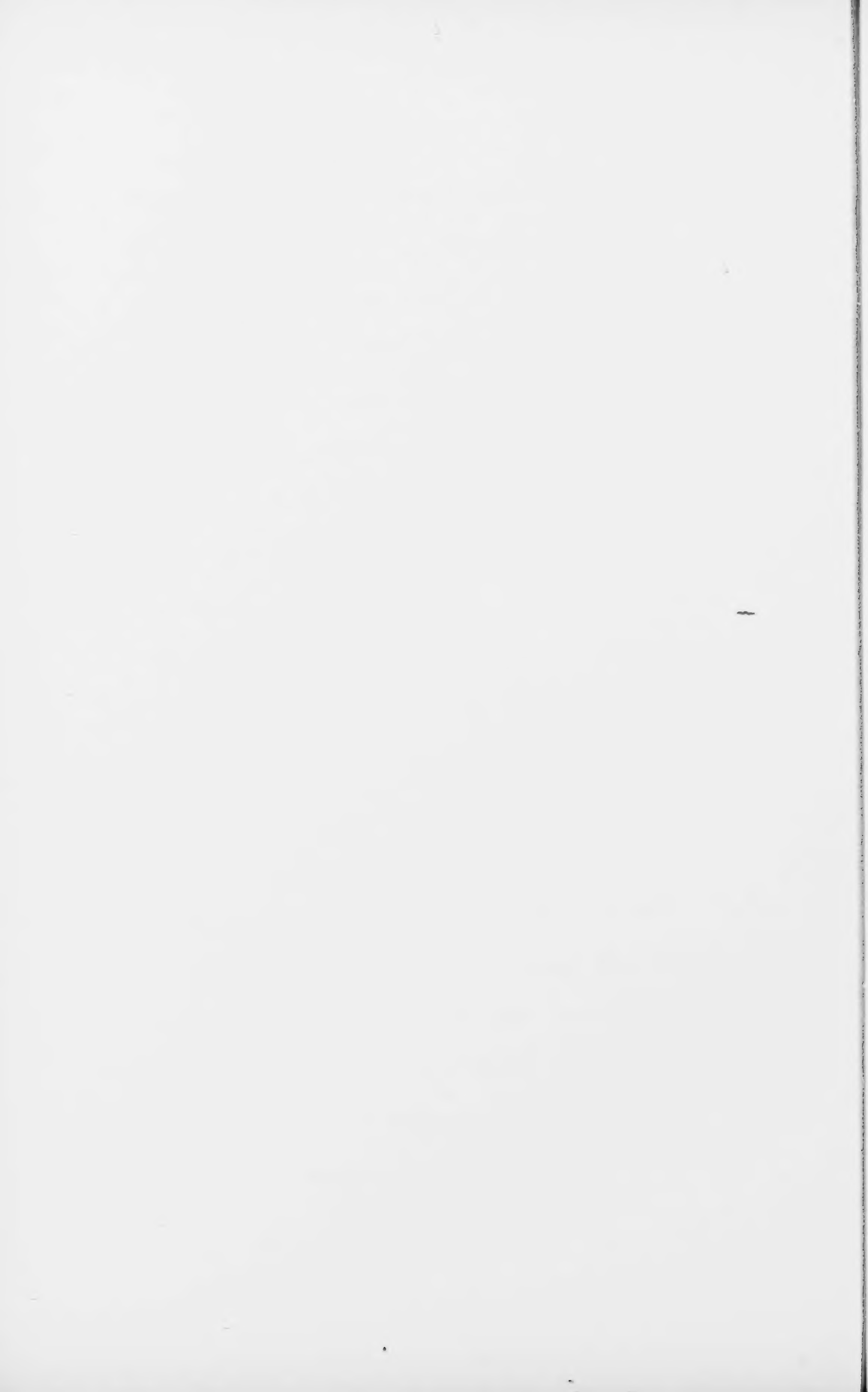
- Appendix A The Unpublished writted opinion
of the Court of Appeals
- Appendix B The Unpublished written opinion
of the District Court for the
Southern District of Florida
- Appendix C The Unpublished written opinion
of the Court of Appeals Eleventh
Circuit denial of a petition for
a rehearing



Respondant has a generic and invalid term and they have changed their name in Florida to Citibank. I Luis A. Soro have not had a fair trial in front of a jury and Respondant poses an enormous threat to the entire banking system here in Florida if they are permitted to remain in Florida. Respondant has violated Federal and Florida banking laws and rules, and will continue to do so unless they are stopped and directed out of Florida. I am Respectfully requesting that I be able to face my accuser in a court of law just like the SIX (6) amendment to the U.S. Constitution says.

Opinions BELOW

The opinion of the Court of APPEALS which was written but unpublished appears in Appendix A to this Petition. The Unpublished written opinion of the District Court for the Southern District of Florida appears in Appendix B to this petition. The denial of a re-hearing appears in Appendix C.



JURISDICTION

The Court of Appeals' Opinion in this matter was filed on February 23, 1990. A timely petition for a re-hearing was filed on March 07, 1990. The Court of Appeals' denial of the petition for re-hearing was issued on March 26, 1990 and is set forth in Appendix C. This Court's Jurisdiction is invoked under Title 28, U.S.C. § 1254 (1) and 28 U.S.C. § 2101 (c).

CONSTITUTIONAL AND STATUTORY PROVISIONS

I Luis A. Soro did not get a fair trial. Respondent has harrassed me in a gargantuan maner and I did not get my share of justice under the law. Also the Six (6) amedment to the U.S. Constitution states that I will be able to face my accuser in a court of law.

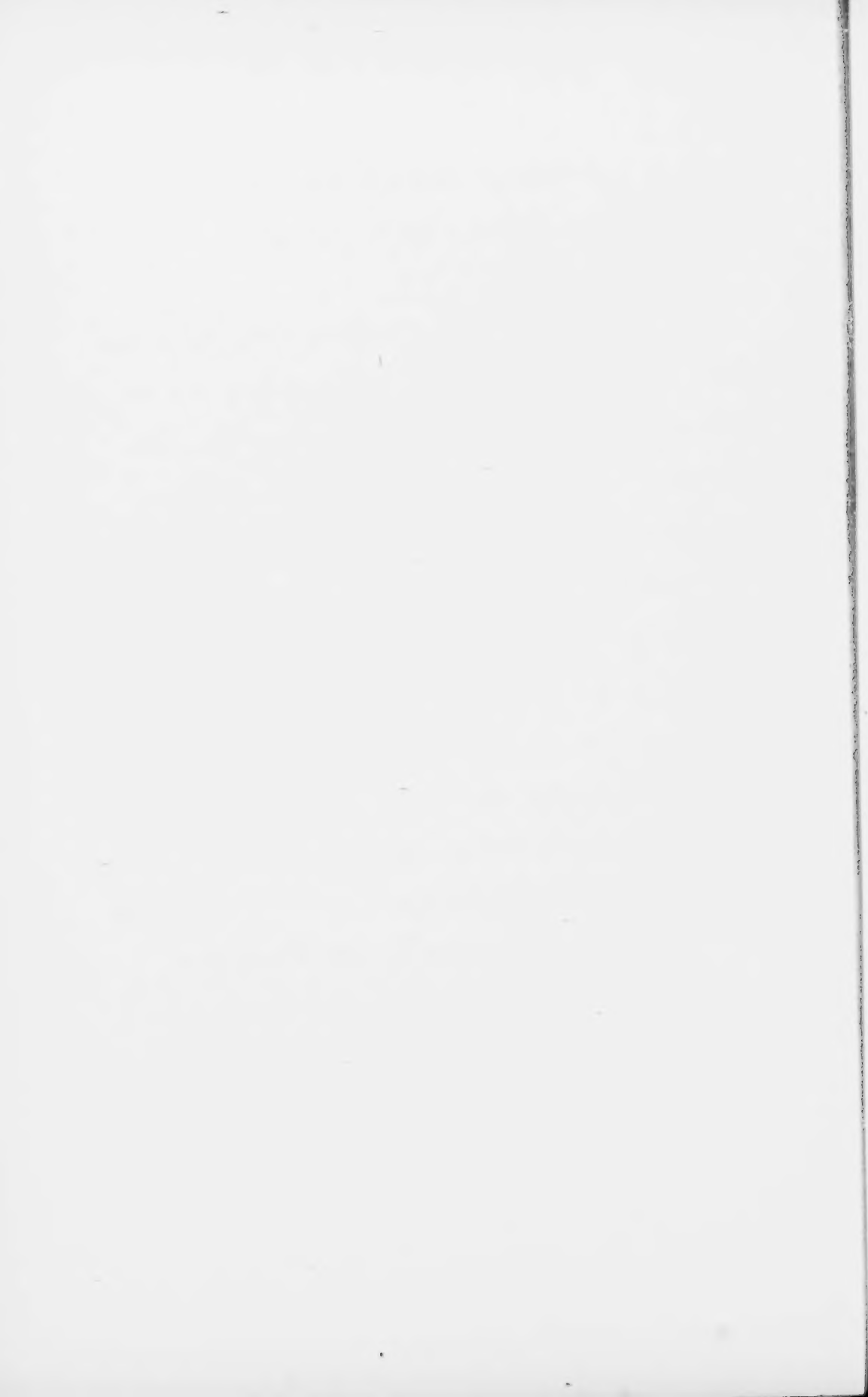
STATEMENT OF THE CASE

The United States District Court, for the Southern District of Florida had jurisdiction pursuant to Title 28 U.S.C 1332 and because

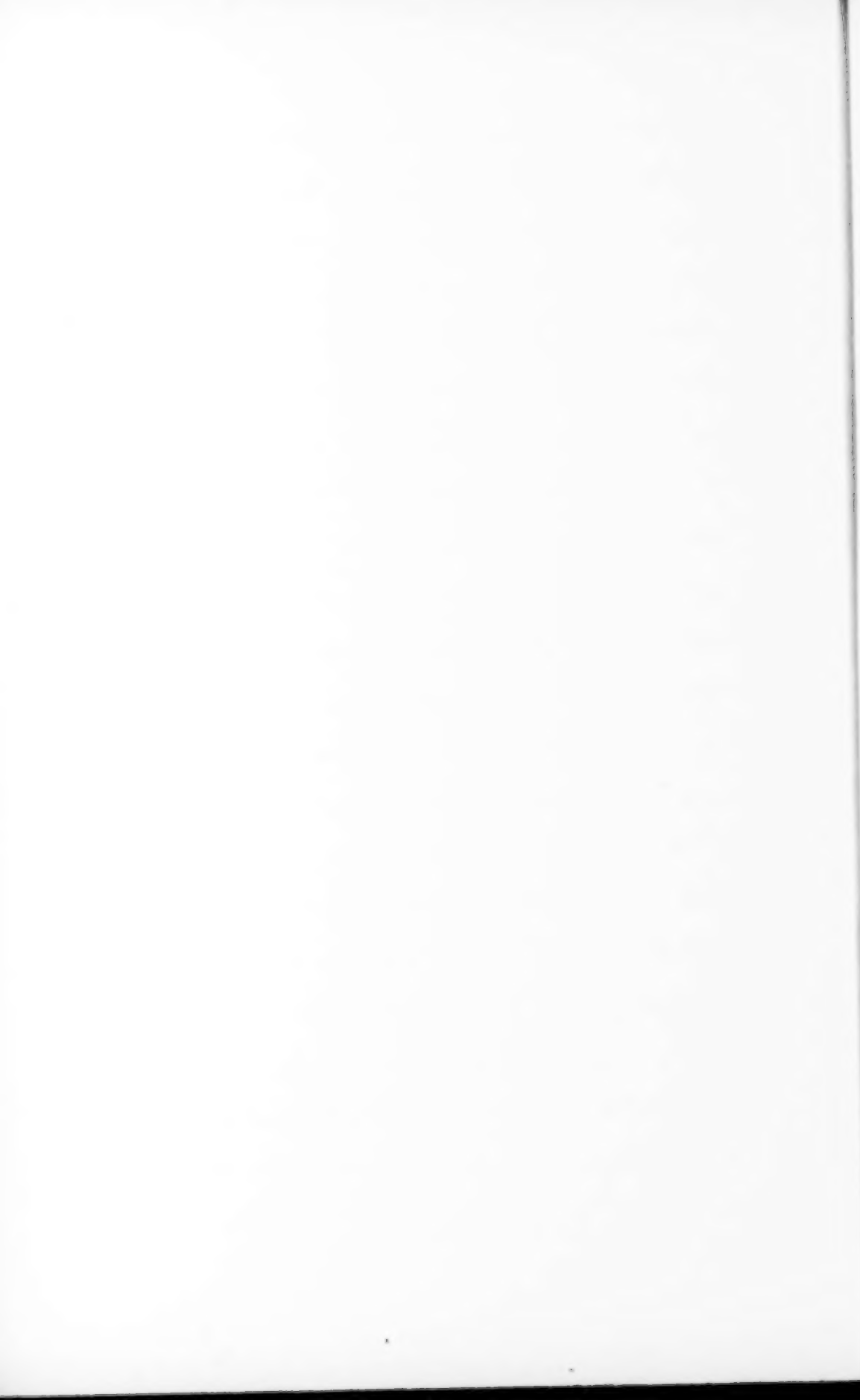


this is a compulsory Counterclaim, venue is proper in the District Court pursuant to 28 U.S.C. § 1391.

On August 26, 1985 a complaint was filed in the District Court for the Southern District of Florida against CITICORP MORTGAGE CO. INC., for alleged trademark infringing of a generic, unenforceable, and cancellable term. On May 13, 1986 the summons was served on me Luis A. Soro. On January 14, 1987 an amended complaint included me Luis A. Soro personally as a party to the matter was filed. On March 12, 1987 Respondent filed a moot Motion for Summary Judgment filed out of time with the time schedule ordered by the Honorable Judge Eugene P. Spellman on December 19, 1986. The case continued and on September 8, 1987 the Summary Judgment was entered for Respondent on all Counts against CITICORP MORTGAGE CO. INC. AND me Luis A. Soro personally. On October 6, 1987 I appealed



the District Court's opinion to the Eleventh Circuit Court of Appeals, on June 30, 1988 the Court of Appeals reversed and remanded the case in part and dismissed in part. It did not realize that I Luis A Soro was a/k/a CITICORP MORTGAGE CO. INC., and therefore I could also bring an appeal on behave of CITICORP MORTGAGE CO. INC.,. On October 6, 1988 the District Court again granted the moot motion for summary judgment without standing against me Luis A. Soro. I again appealed the District Court's opinion because it was providing protection to a generic, invalid, unenforcable, fraudulently obtained, fatally weak and extensevely used by thousands of Florida corporations the term "citicorp". Also the District Court's opinion was not consistent with the case law that was provided. Centrust Bank v. Suntrust Bank, 87-1314-CIV-ALH (Miami), Chase Federal Bank v. Chase Manhattan Bank 84-1642-CIV-WMH (Miami) Cummins Engine Co. Inc. v. Continental Motors Corp. & the CANCELLED trade name "Turbo DIESEL" 359 F. 2d 892,894, 53



C.C.P.A. 1167, 1169 (1966) Fidelity Bond and Mortgage CO. v. Fidelity Bond and Mortgage Co. of Texas 37 F.2d 99 (5th Cir. 1930) First Southern Federal Savings and Loan Association v. First Southern Federal Savings and Loan Association 614 F.2d 71,74 (5th Cir. 1980) Murphy Door Bed Co. v. Murphy Bed Co. (2nd Cir. 1989) Steak & Brew v. Beef & Brew 370 F. Supp. 1030 (1974) Sun Bank v. Sun Federal 615 F.2d. 311 (5th Cir. 1981) Surf Club v. Tatem Surf Club 151 Fla. 406 -10 So. 2d 554 -557 (1942). Please note in all these cases the parties have been able to keep their names. My company name has been stolen from me after I had had it for Seven (7) years and in was registered in Florida to me. I am also Respectfully requesting that this Honorable Court return it to me. I am seeking compensation for the gargantuan damages Respondent has caused me when they Breached a contract



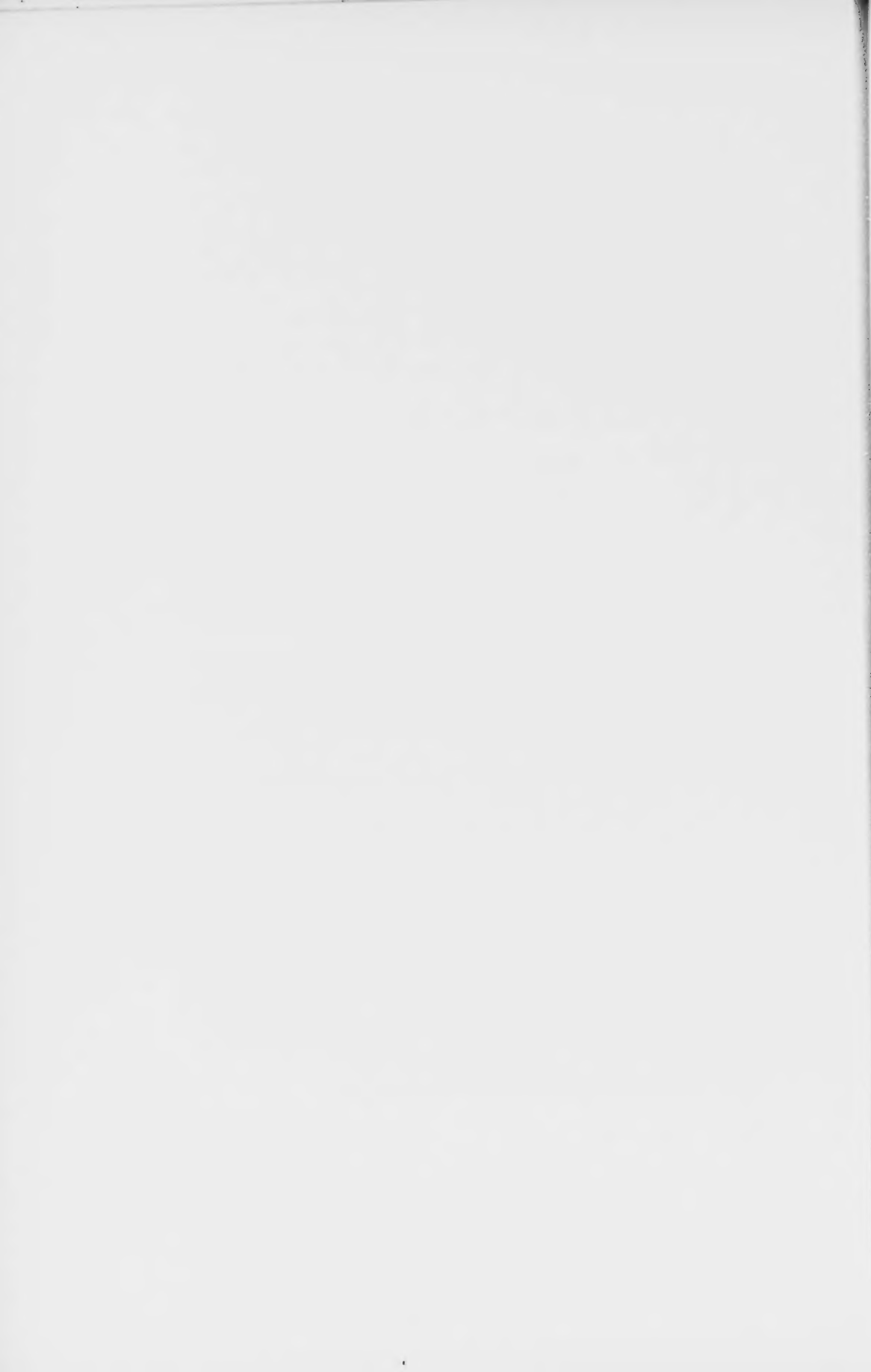
I had with the telephone Yellow pages. Please see the Pennzoil Co. v. Texaco, Inc., case # 84-05905 (151st Dist. Ct., Harris County, Tex. Nov. 15, 1985) in which Pennzoil was awarded 10.53 Billion dollars for tortious interference they suffered from Texaco. My case is very similar to the Pennzoil case and I have exhausted all my options in the lower Courts.

I am Respectfully requesting that if this Honorable Court elects not to address the issues presented at this time, it remand the matter to the Court of Appeals for a redetermination of this Court's opinion in the cases mentioned.

REASONS FOR GRANTING THE WRIT

CERTIORARI SHOULD BE GRANTED FOR TWO REASONS:

This petition presents an issue resolved by implication by this Court but has not specifically and unequivocally decided by this Court, and the Opinions below conflicts by implication with previous decisions of this Court and with



the decisions of other Circuits, The Courts have constantly prevented a generic term from being protected. See case law authorities listed in this petition. Setting all this aside Respondent is in very poor financial condition and must be prevented from buying failed savings and loans and banks. I have not recieved a fair trial and I should be able to face my accuser in a court of law just like the SIX(6) amedment to the U.S. Constitution says. Federal law and Florida Laws related to banking strickly prohibits bank holding companies to establish a bank in Florida. I have been Harrassed, intimidated, and threared and I have done nothing wrong, all I did was form my corporation in good faith and with clean hands and with the approval of the Secretary of State of Florida and the Florida Comptroller's office. To continue I was here first and Plaintiff/Counter Defendant/Respondent was barred from



entering the State of Florida. They want to Steal my name in my area and this is not fair. Respondent has caused me gargantuan damages and this Honorable Court Should not tolerate this massive abuse, and should review the relief sought, the compensation that is requested and that should be granted.

The Honorable District Court erred in failing to weigh the factors "identity of service facilities and customers" the weakness of the mark, apparent fraud, and the fact that we have traditionally tolerated a greater degree of resemblance among the names of financial institutions. This error was affirmed by the Eleventh Circuit Court of Appeals. Furthermore if there was no likelihood of confusion in this case because Respondent was barred from entering the State of Florida, hence no trademark infringing could occur. Wholly apart from that "citicorp" is too weak a mark to merit trademark



protection. The Honorable Lower Courts failed to apply trade regulation key #347 which states in determining likelihood of confusion between service marks, similarity of appearance is determined on the basis of the total effect of the designation rather than on a comparison of individual features. In this service mark infringement action I have provided evidence of ~~third-party~~ third-party use of the words "city or city or cities and corp or corporation used consecutively or in the trade name and based on this conclusion can be drawn with impressive evidence that there would be no likelihood of confusion between the two marks, specially when a service mark is itself weak, minor additions may effectively negate any confusing similarity.

CONCLUSION

For all the reasons stated above, a writ of certiorari should be issued to review the judgment and the opinion of the Court of Appeals in this matter. ¹

¹ If this Honorable Court elects not to address this writ at the present time, it is requested that the writ issued and that the matter be remanded to the Court of Appeals for re-determination in light of this Court's opinion in other cases.

Respectfully submitted

LUIS A. SORO A/K/A
CITICORP MORTGAGE CO INC.
1439 A-Alton Road
Miami Beach, Fla 33139
(305) 674-1425



IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NO. 88-6178

Citicorp,

Plaintiff-Counterclaim
Defendant-Appellee

versus

CITICORP MORTGAGE CO. INC.,
Defendant

Life Corp

Defendant-Counterclaim
Plaintiff-Appellant

Appeal from the United States District Court
for the Southern District of Florida

ON PETITION(S) FOR REHEARING

(March 26, 1990)

BEFORE: KRAVITCH, HATCHETT and ANDERSON,
Circuit Judges

PER ORDEM:

The petition(s) for rehearing filled by
appellant is denied.

ENTERED FOR THE COURT:

UNITED STATES CIRCUIT JUDGE



Citicorp,
Plaintiff,

vs

UNITED STATES DISTRICT
COURT SOUTHERN DISTRICT
OF FLORIDA

Luis SORO, an individual
Defendant,

CASE NO. 85-2960
CIV-SPELLMAN

SUMMARY FINAL JUDGMENT

THIS CAUSE comes before the Court upon Plaintiff Citicorp's (CITICORP) Motion for Summary Judgment. This action was first brought against CITICORP MORTGAGE COMPANY, INC. (CITICORP MORTGAGE). CITICORP MORTGAGE answered and subsequently filed two counterclaims on October 6, 1986. On March 5, 1987, Plaintiff filed its Amended Complaint adding Defendant, LUIS SORO ("SORO") as a party defendant. Both defendants filed answers and affirmative defenses to that Amended Complaint. Although Soro was represented by counsel at that time, SORO continually attempted to file Motions in his own behalf and on behalf of CITICORP MORTGAGE.



USE OF NAME CITICORP

When this Court granted Summary Judgment against CITICORP MORTGAGE ON September 8, 1987, CITICORP MORTGAGE was directed to cease all infringing activities, to change the corporate name and to deliver all infringing material for destruction. This Court informed SORO at the August 24, 1988, hearing that when the mandate from the 11th Circuit was received, this Court would issue an Order directing SORO, as the representative of CITICORP MORTGAGE, to initiate a change with regard to that name in accordance with this Court's summary final judgment. The Court went on to explicitly warn SORO that in the event that CITICORP MORTGAGE failed to abide by that Order, this Court would hold SORO responsible and would initiate contempt proceeding by way of civil contempt against the officer to whom that Order was and is directed, to wit, SORO. SORO was told at that time that he would have ten (10) days from the date of this Court's Order to

conform to the Summary Judgment dated September 8, 1987, and change the name of the corporation on the records of the Secretary of State's Office for the State of Florida.

The mandate was received from the Eleventh Circuit on September 8, 1988. Therefore, SORO has ten days from the date of this Order to comply with this Court's instructions contained in the September 8, 1988, Order and given to SORO in open court on August 24, 1988. Failure to do so will result in SORO being held in civil contempt.

Accordingly, it is hereby

ORDERED AND ADJUDGED that the Plaintiff's motion for Summary Judgment is GRANTED. It is further ORDERED that the Counterclaim filed by SORO is DISMISSED as untimely, and for lack of standing. Defendant SORO, as sole stockholder and officer of CITICORP MORTGAGE COMPANY, INC. is hereby directed to initiate a name change for CITICORP MORTGAGE and to comply with the

Other directives contained in this Court's
Judgment dated September 8, 1987,
within ten (10) days of the date of this Order.

AND ORDERED in chambers at Miami,
Florida this 6 day of Oct, 1988.

UNITED STATES DISTRICT JUDGE

cc: all counsel of record



IN THE UNITED STATES COURT OF
APPEALS FOR THE ELEVENTH CIRCUIT

No. 98-6178

Non-Argument Calender

D.C. Docket No. 95-2960-CIV-SSP

Citicorp, Plaintiff-Counter
Claim Defendant-Appellee,

versus

CITICORP MORTGAGE COMPANY INC.

Defendant.

Luis A. Soro Defendant/Counter
Claim-Plaintiff-Appellant

Appeal from the United States District Court
for the Southern District of Florida

February 23, 1990

Before Kravitch, Hatchett, and ANDERSON, Circuit Judges.

Per CURIUM:

AFFIRMED. See Circuit Rule 36-1.